



D. KENT HURN, CHAIRPERSON

**K A N S A S**  
**DEPARTMENT OF ADMINISTRATION**  
**CIVIL SERVICE BOARD**

**KATHLEEN SEBELIUS,**  
GOVERNOR  
**HOWARD R. FRICKE** SECRETARY

To: Jack Rickerson, Director, Division of Personnel Services  
Mark S. Braun, Director, Office of Administrative Hearings  
D. Kent Hurn, Chairman, Civil Service Board

From: Peggy Graham, Secretary, Civil Service Board

Date: October 15, 2003

Re: Quarterly Update

The following reflects the Civil Service Board cases in which action was taken since the July 15, 2003 quarterly report:

A. Cases Decided and/or Disposed Of:

1. **Name Removed**, dismissal *dismissed*  
Department of Administration  
Custodial Worker. In a meeting with her supervisors to discuss her work restriction due to an injury, *Employee* became angry and refused to do any work. As she was leaving the room she swore at her supervisors. Then in the lobby near the elevator, she again began screaming at her supervisor, cursed at her and used racial epithets. A few days later she again met with supervisors. In this meeting she again used vulgar and profane language toward her supervisors. *Employee* and her attorney failed to appear for the scheduled hearing and a default order was issued against her.
2. **Name Removed**, 3-day suspension *affirmed*  
Kansas State University  
Electrician Senior. *Employee* exhibited a pattern and practice of arriving at work late and leaving early without approval to do so. He was verbally counseled several times, received a number of written counselings, was placed on leave restriction that required additional notice to his supervisor for annual leave requests and a doctors statement when sick leave was needed. *Employee* did not comply with these requests and received a 1-

day suspension, which he served. The behavior continued and on March 4, 2003 he left his workstation early due to a snowstorm. On March 5, 2003 he did not call in and did not show up for work. He did not have approval of his supervisor for either absence. After hearing all of the evidence, the Board determined that the decision of the appointing authority was reasonable.

3. **Name Removed**, 5-day suspension *modified*  
Topeka Juvenile Correctional Facility  
Juvenile Corrections Officer III. *Employee* was the shift manager on January 17, 2003 when assistance was needed with a Juvenile Offender who was being disruptive on a living unit. *Employee* assisted in restraining the JO, handcuffing the Jo and transporting the JO to a closed unit for the night. During this process, the HO accused *Employee* of poking him in the face, telling the JO he was “dreaming”, stepping on his leg shackles causing the JO to fall and of sweeping his feet out from under him. The facility also found that *Employee* failed to report the use of an unapproved chokehold by another officer and failed to report the use of unapproved handcuffs by another officer. The Board found discipline to be unreasonable to all charges other than the failures to report and the leg sweep. Consequently, the decision of the appointing authority was modified to a 1-day suspension.
4. **Name Removed**, 7-day suspension *dismissed*  
Kansas Department of Corrections  
Microsystems Support Technician III. *Employee* worked in the Kansas Correctional Industries Division within the Department. With that position he had frequent contact with inmates. *Employee* allowed an inmate to have access to a personal computer and to the internet He also assisted the inmate in receiving unauthorized books and CDs *Employee* received the unauthorized materials from the inmate’s mother and delivered then to the inmate. *Employee* did not appear at his scheduled hearing and a default order was issued.
5. **Name Removed**, dismissal *dismissed*  
Kansas Neurological Institute  
Mental Retardation Technician I. *Employee* was dismissed from her probation position with KNI. She timely filed her appeal, however it was subsequently dismissed for lack of jurisdiction as she was not a permanent employee in the classified service at the time of her dismissal.
6. **Name Removed**, demotion *withdrawn*  
Topeka Juvenile Correctional Facility  
Social Work Supervisor. *Employee* received two consecutive unsatisfactory performance evaluations within 180 days. He had had six previous letters of reprimand. The matter was settled between the parties and the request for hearing was withdrawn.

7. **Name Removed**, dismissal *affirmed*  
The University of Kansas  
Custodial Worker. *Employee* received two consecutive unsatisfactory performance evaluations within 180 days. *Employee* claimed that he could not satisfactorily perform the work due to conditions in the building that aggravated his eye condition. The University made a number of attempts to accommodate his eye condition, but *Employee* refused all of them and continued to perform poorly. After hearing all of the evidence, the Board determined that the decision of the appointing authority was reasonable.
8. **Name Removed**, dismissal *affirmed*  
Topeka Correctional Facility  
Storekeeper Specialist. *Employee* has a history of disciplinary actions for inappropriate behavior in the workplace. She received a 5-day suspension for bringing unauthorized food items into the facility and inappropriate use of a state vehicle. She received a 7-day suspension for bring a camera to the facility and taking unapproved and inappropriate photographs of inmates. She also received a 5-day suspension for yelling and inappropriately confronting an inmate. Her dismissal resulted when she confronted a supervisor in the supervisor's office, shutting the office door, blocking it and refusing to allow the supervisor to leave. After hearing all of the evidence, the Board determined that the decision of the appointing authority was reasonable.
9. **Name Removed**, dismissal *affirmed*  
Kansas Department of Transportation  
Engineering Technician. *Employee* got into an argument with an office assistance about some information that he had failed to gather as part of a road-resurfacing job that he had supervised. The argument became heated. The following morning, *Employee* was still angry and stated to two co-workers that he had a gun in his truck and knows how to take care of her. *Employee* had admitted to having a firearm on state property in the past. After hearing all of the evidence, the Board determined that the decision of the appointing authority was reasonable.
10. **Name Removed**, dismissal *dismissed*  
Larned Juvenile Correctional Facility  
Public Service Executive III. *Employee* had been dismissed from his unclassified position as a Deputy Commissioner in February 2003. Between the notice of dismissal and the effective date of the dismissal from the Deputy Commissioner position, *Employee* accepted a classified position as a Public Service Executive III at LJCF. He was subsequently dismissed from the position prior to the expiration of his probationary period. Because he was not a permanent employee in the classified service at the time of his dismissal, the Board did not have jurisdiction over the matter and the agency's motion for summary judgment was granted.

11. **Name Removed**, 3-day suspension *affirmed*  
Lansing Correctional Facility  
Corrections Officer I. *Employee* was arrested for DUI on January 1, 2003 in Lansing, Kansas. LCF policy states that for a first DUI offense, a nonexempt employee shall receive a three-day suspension. *Employee* admitted that he had been driving under the influence of alcohol at the time of his arrest. After hearing all of the evidence, the Board determined that the decision of the appointing authority was reasonable.
12. **Name Removed**, dismissal *affirmed*  
Topeka Correctional Facility  
Corrections Officer II. *Employee* engaged in a personal relationship with an inmate that violated the undue familiarity policy of the facility. *Employee* had been disciplined on three prior occasions for engaging in undue familiarity with an inmate. After hearing all of the evidence, the Board determined that the decision of the appointing authority was reasonable.
13. **Name Removed**, dismissal *dismissed*  
Kansas Department of Social and Rehabilitation Services  
Economic and Employment Specialist I. *Employee* received two unsatisfactory performance evaluations in 180 days and was therefore dismissed. *Employee* did not appear at his scheduled hearing and a default order was issued.
14. **Name Removed**, 1-day suspension *affirmed*  
Lansing Correctional Facility  
Corrections Specialist I. *Employee* was the officer in charge of the segregation unit on March 29, 2003. There were three Correction Officer I's also assigned to the segregation unit on that date. It is the responsibility of the officer in charge to determine which inmates carry a status that would require them to have double or triple escorts when leaving their cell *Employee* failed to make this determination prior to moving the inmates in the segregation unit to and from the showers. Because of this failure, two inmates who should have had a double corrections officer escort had only a single escort. The inmates used this opportunity to engage in a fistfight with other inmates. After hearing all of the evidence, the Board determined that the decision of the appointing authority was reasonable.
15. **Name Removed**, dismissal *affirmed*  
Kansas Neurological Institute  
Mental Retardation Technician I. *Employee* was assigned to the 10:00 pm to 6:00 pm shift in one of KNI's patient cottages. On April 28, 2003 and April 29, 2003, *Employee* received telephone calls from individuals she believed to be co-workers at KNI. These individuals asked her to withdraw funds from the cottage ATM account for activities scheduled for the next day. This was not an unusual request and *Employee* complied. She left the funds in the medicine cabinet with the ATM card in its usual envelope. The funds were never recovered or used for patient activities. The funds remain unaccounted

for and none of *Employee* co-workers have admitted to placing the telephone calls to her. After hearing all of the evidence, the Board determined that the decision of the appointing authority was reasonable.

16. ***Name Removed***, dismissal *withdrawn*  
University of Kansas Medical Center  
General Maintenance and Repair Technician. *Employee* sustained a back injury while working at KU Medical Center. According to his treating physician, he was unable to perform his job duties as a result of the injury. It was determined that his condition was not covered by the Americans with Disabilities Act and therefore accommodations were not appropriate. *Employee* was dismissed for failure to be able to perform the essential duties of his job. *Employee* withdrew his appeal prior to the scheduled hearing.
17. ***Name Removed***, dismissal *modified*  
Kansas Department of Health and Environment  
Administrative Assistant. *Employee* used his security key card to access an area of Landon State Office Building inappropriately. He then confronted a KDOC employee, yelled and cussed at her, shoved a table at her and caused her to fall backwards. He admits to the confrontation, yelling and cussing, but denies shoving the table into her and causing her to fall. He was suspended for 5 days for violation of the workplace violence policy. He was also charged with and convicted of misdemeanor assault and battery. After learning of the conviction, the agency dismissed *Employee* from his employment. The Board modified the decision of the agency finding that dismissal was not reasonable given that the same set of facts had resulted in a suspension in February. The Board imposed a 50-day suspension.
18. ***Name Removed***, dismissal *affirmed*  
Topeka Juvenile Correctional Facility  
Juvenile Corrections Officer I. *Employee* was charged with felony theft on December 31, 2002. He attempted to call his supervisor on one occasion about 13 days after the charges were filed and three days after he learned about the charges. He did not tell his supervisor why he was calling. When she asked him to call her the following day, he failed to do so. JJA policy states that when a JJA employee is charged with or convicted of a prohibited crime, they must report that information to the superintendent of the facility. *Employee* failed to report his charges as was required. After hearing all of the evidence, the Board determined that the decision of the appointing authority was reasonable.
19. ***Name Removed***, dismissal *withdrawn*  
Kansas Highway Patrol  
Trooper. *Employee* was involved in a motor vehicle accident. As a result of the accident and ensuing investigation, it was discovered that *Employee* had been in possession of several videotapes containing child pornography. In his attempts to get these confiscated tapes back he lied to his supervisors on several occasions and repeatedly changed his story regarding the tapes. It was also discovered that he had numerous Notices To Appear

from DUIT stops that he had made that had not been filed. As a result, these cases were not charged by the local county attorney's offices and the perpetrators not held accountable for their actions. *Employee* withdrew his appeal prior to the scheduled hearing.

B. Cases Filed Between July 15, 2003 and October 15, 2003:

1. Highway Patrol, filed July 18, 2003
2. Kansas University, filed July 21, 2003
3. Topeka Correctional Facility, filed July 23, 2003
4. Hutchinson Correctional Facility, filed August 11, 2003
5. Highway Patrol, filed August 18, 2003
6. Highway Patrol, filed August 21, 2003
7. Topeka Correctional Facility, filed August 22, 2003
8. Kansas Neurological Institute, filed August 27, 2003
9. Lansing Correctional Facility, filed August 28, 2003
10. Kansas Neurological Institute, filed August 29, 2003
11. Social and Rehabilitation Services, filed September 9, 2003
12. Topeka Juvenile Correctional Facility, filed September 15, 2003
13. University of Kansas, filed September 16, 2003
14. Department of Corrections, filed September 23, 2003
15. Highway Patrol, filed September 29, 2003
16. Topeka Juvenile Correctional Facility, filed September 29, 2003
17. Ellsworth Correctional Facility, filed September 29, 2003
18. Kansas Neurological Institute, filed October 2, 2003
19. University of Kansas, filed October 3, 2003
20. Atchison Juvenile Correctional Facility, filed October 6, 2003
21. Atchison Juvenile Correctional Facility, filed October 10, 2002

C. Cases Still To Be Heard:

1. dismissal, Social and Rehabilitation Services, set 11/17/03
2. dismissal, Topeka Juvenile Correctional Facility, set 12/18/03
3. 3-day suspension, Highway Patrol, set 11/4/03
4. 1-day suspension, University of Kansas, set 10/22/03
5. dismissal, Lansing Correctional Facility, set 11/18/03
6. dismissal, Atchison Juvenile Correctional Facility, set 11/21/03
7. dismissal, Highway Patrol, set 11/6/03
8. dismissal, Kansas Neurological Institute, set 12/3/03
9. dismissal, Ellsworth Correctional Facility, set 11/5/03
10. dismissal, Department of Corrections, set 11/5/03
11. dismissal, Highway Patrol, set 12/4/03
12. dismissal, Transportation, set 10/22/03
13. 3-day suspension, Larned Correctional Facility, set 10/23/03
14. dismissal, Hutchinson Correctional Facility, set 11/19/03

15. 3-day suspension, University of Kansas, set 11/20/03
16. 1-day suspension, Kansas Neurological Institute, set 10/23/03
17. demotion, Topeka Juvenile Correctional Facility, set 11/7/03
18. dismissal, Topeka Correctional Facility, set 10/8/03
19. dismissal, Health and Environment, set 10/20/03
20. dismissal, Social and Rehabilitation Services, 10/24/03
21. 5-day suspension, Atchison Juvenile Correctional Facility, 11/20/03

D. Statistics for Completed Cases:

1. Dismissals: 13
2. Demotions: 1
3. Suspensions: 5
4. Other: 0

1. Affirmed: 9
2. Reversed: 0
3. Modified: 2
4. Dismissed: 5
5. Withdrawn: 3

1. Department of Corrections: 5
2. Juvenile Justice Authority: 4
3. Social and Rehabilitation Services: 3
4. University of Kansas/ KU Med: 2
5. Department of Administration: 1
6. Kansas State University: 1
7. Department of Transportation: 1
8. Health and Environment: 1
9. Highway Patrol: 1